

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

MARK ADKINS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:23-cv-61 (RDA/LRV)
)	
NICKWON ARVINGER, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

This matter comes before the Court on Plaintiff's Motion for a Show Cause Order, Dkt. 55, Plaintiff's Motion to Compel Compliance (Dkt. 60), and Magistrate Judge Lindsay R. Vaala's Report and Recommendation ("Recommendation") (Dkt. 71) on those motions. Magistrate Judge Vaala recommends that: (1) the Court hold Defendants in civil contempt for their failure to comply with the Consent Judgment entered by the Court on September 27, 2023; (2) the Court award Plaintiff a compensatory award of \$5,000 for Defendants' violation of the Consent Judgment; (3) the Court order Defendants to immediately comply with injunctive relief in the Consent Judgment within fifteen (15) days, the Court impose a daily fine of \$1,000 until Defendant's comply; (5) the Court order Defendants to immediately remit \$66,600 to Plaintiff pursuant to the terms of the formal settlement agreement between the parties, which is incorporated by reference into the Consent Judgment; (6) if Defendants fail to remit \$66,600 to Plaintiff within fifteen (15) days, the Court impose a daily fine of \$250 until Defendants make the required payment in full; (7) the Court order Plaintiff to submit a statement of reasonable attorneys' fees and costs incurred in bringing the Motion for Show Cause Order and Motion to Compel Compliance; and (8) the Court award Plaintiff's reasonable attorneys' fees and costs. Pursuant to Federal Rule of Civil Procedure

72(b)(2), the deadline for submitting objections to Magistrate Judge Vaala's Recommendation was December 21, 2023. To date, no objections have been filed. On April 19, 2024, Plaintiff filed a Motion for Continued Contempt (Dkt. 73) essentially asking the Court to adopt Magistrate Judge Vaala's Recommendation. The only difference in Plaintiff's new Motion is that he asks the Court to begin sanctions immediately rather than within fifteen days of the entry of this Order.

After reviewing the record and Magistrate Judge Vaala's Recommendation, and finding no clear error,¹ the Court hereby APPROVES and ADOPTS-IN-PART the Recommendation (Dkt. 71). Accordingly, it is hereby ORDERED that Plaintiff's Motions (Dkt. 55; 60; 73) are GRANTED; and it is

FURTHER ORDERED that the Court holds Defendants in civil contempt for their failure to comply with the Consent Judgment entered by the Court on September 27, 2023; and it is

FURTHER ORDERED that the Court awards Plaintiff a compensatory award of \$5,000 for Defendants' violation of the Consent Judgment; and it is

FURTHER ORDERED that the Defendants immediately comply with injunctive relief in the Consent Judgment. The Court will impose a daily fine of \$1,000 until Defendants comply; and it is

FURTHER ORDERED that Defendants immediately remit the remaining \$51,050 to Plaintiff pursuant to the terms of the formal settlement agreement between the parties, which is incorporated by reference into the Consent Judgment; and it is

¹ See *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (in the absence of any objections to a Magistrate Judge's Recommendation, the Court "need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'").

FURTHER ORDERED that if Defendants fail to remit \$51,050 to Plaintiff immediately, the Court will impose a daily fine of \$250 until Defendants make the required payment in full; and it is

FURTHER ORDERED that Plaintiff submit a statement of reasonable attorneys' fees and costs incurred in bringing the Motion for Show Cause Order, the Motion to Compel Compliance, and the Motion for Continued Contempt; and it is

FURTHER ORDERED that Plaintiff will be awarded reasonable attorneys' fees incurred in bringing the Motion for Show Cause Order, the Motion to Compel Compliance, and the Motion for Continued Contempt; and it is

FURTHER ORDERED that the determination of reasonable attorneys' fees is REFERRED to the assigned magistrate judge pursuant to 28 U.S.C. § 636; and it is

FURTHER ORDERED that the hearing on the Motion for Continued Contempt (Dkt. 73) is terminated.

The Clerk is further directed to forward copies of this Order to counsel of record.

It is SO ORDERED.

Alexandria, Virginia
April 22, 2024


/s/

Rossie D. Alston, Jr.
United States District Judge